

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
Northern Division

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

2002 MAY 22 P 2:10

United States Equal Employment )  
Opportunity Commission, )  
 )  
Plaintiff )  
v. )  
 )  
Innovative Medical Research, Inc., )  
 )  
and )  
 )  
AdvancePCS Research, LLC, )  
 )  
Defendants )

CLERK OF COURT  
BALTIMORE  
BY \_\_\_\_\_ DEPUTY

Civil Action CCB:01-cv-1128

CONSENT DECREE

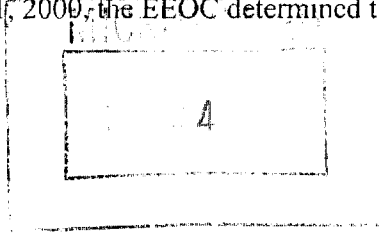
INTRODUCTION

On December 10, 1998, Ms. Beni Lar filed a charge of discrimination with the Equal Employment Opportunity Commission (hereinafter referred to as "EEOC" or "the Commission") pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5 ("Title VII"), alleging that Innovative Medical Research (hereinafter referred to as "IMR") had illegally discriminated against her by denying her employment because of her national origin. During the course of EEOC's investigation of the charge, EEOC discovered possible additional violations and expanded the charge to investigate whether IMR discriminated against a class of applicants based on national origin.

On June 24, 1999, the EEOC issued a decision finding reasonable cause to believe, *inter alia*, that IMR had engaged in discriminatory hiring practices violative of Title VII by failing to hire Ms. Lar and a class of otherwise qualified individuals because of the linguistic characteristics of their various national origin groups, thereby discriminating against them as a class on the basis of their national origin.

The parties attempted conciliation during the period June 24, 1999 through June 20, 2000. By letter dated June 21, 2000, the EEOC determined that conciliation had failed. The

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DISTRICT OF MARYLAND  
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BALTIMORE  
BY \_\_\_\_\_ DEPUTY

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EEOC filed suit in the District of Maryland, Northern Division on April 16, 2001. The suit alleged that IMR violated Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 by discriminating against Ms. Lar and a class of otherwise qualified individuals by failing to hire them as Medical Recruiters/Interviewers because of their accented speech—the linguistic characteristics of their national origin groups. IMR by its answer denied all allegations of discrimination and stated that AdvancePCS Research, LLC, d/b/a Innovative Medical Research, Inc. (hereinafter referred to as “AdvancePCS” or “IMR”) was the successor in interest to IMR. EEOC amended its complaint adding AdvancePCS as a successor Defendant. AdvancePCS was not involved in the EEOC’s investigation of IMR and became a successor in interest of IMR following the EEOC’s determination that attempts to resolve this matter through internal means of conciliation had failed.

Before commencing with the time and expense of litigation, the parties again met and entered into extensive mediated settlement negotiations. During these negotiations, which involved numerous face-to-face, telephonic, and e-mail communications, both parties cooperated in good faith in exchanging information, developing alternative dispute resolution procedures and making all reasonable efforts to contact and elicit information from persons who might have information relevant to this action and its resolution.

The parties have reached settlement of all outstanding issues. Accordingly, the Commission and IMR recognize that settlement is the means of dispute resolution favored by Title VII and therefore have entered into this agreement to be jointly presented to the Court for approval and entry as a Consent Decree to resolve EEOC’s allegations, to avoid the delay, costs and risks of further proceedings, and to promote and effectuate the purposes of Title VII. The parties now jointly request that the Court enter this Consent Decree as a resolution of all matters in EEOC’s Amended Complaint.

For the purposes of resolving this action, IMR admits that this Court has jurisdiction over the claims alleged in this action, and that all statutory and jurisdictional prerequisites to suit have been satisfied.

The parties do hereby stipulate and consent to the entry of this Decree as final and binding between the parties signatory hereto.

This Decree, reached with the mutual consent of the parties, shall not constitute an adjudication on the merits of the case and shall in no manner be construed as an admission by IMR of any discriminatory or unlawful practice or of any wrongdoing, fault or liability. This Decree also shall not be construed as a waiver by the Commission of any contentions of discrimination alleged in its Amended Complaint in this action.

The parties have agreed that this Decree may be entered without Findings of Fact and Conclusions of Law having been made and entered by the Court.

#### **GENERAL PROVISIONS**

1. This Decree resolves all issues and claims arising under Title VII alleged in the Amended Complaint in the above-captioned matter based on the charge of discrimination filed by Beni Lar, charge number 120-99-0251, and the subsequent expanded investigation of that charge, and this Decree resolves all claims for back pay, compensatory and punitive damages, interest, injunctive relief, attorney's fees, and any other form of relief sought, or that could have been sought, by any of the parties.

2. IMR agrees that it will not discriminate against any of its employees or applicants for employment who oppose any practice made an unlawful employment practice by Title VII, or who make a charge, testify, assist, or participate in any manner in an investigation, proceeding, or hearing under Title VII. IMR further agrees that it will not retaliate against any employee or applicant because he or she made a charge, or participated, testified or assisted the Commission in any manner in this action or in the investigation of the employment discrimination charge resolved by this Decree.

### **INJUNCTION AGAINST NATIONAL ORIGIN DISCRIMINATION**

3. IMR, its officers, agents, servants, employees, successors in interest and all persons acting or claiming to act in their behalf and interest will be, and hereby are, enjoined and restrained from engaging in any employment practice which discriminates against its employees or applicants for employment on the basis of national origin. Specifically, IMR is enjoined from rejecting qualified applicants of any national origin for the Medical Recruiter/Interviewer position at their Maryland facility solely due to their having foreign accents. However, the parties acknowledge that the ability to communicate effectively in English, including medical terminology, so long as all applicants are subjected to the same selection criteria, is a necessary skill for the Medical Recruiter/Interviewer position, and that IMR may reject applicants on this basis, even if they do possess foreign accents.

### **TERM OF DECREE**

4. This Decree shall become effective on the date of its entry by the Court. The Decree shall remain in effect for two (2) years from that date. This provision does not in any way preclude the EEOC from filing an enforcement action for alleged noncompliance with the Decree or the Court from finding noncompliance with the Decree and ordering appropriate relief.

### **MONETARY REMEDY**

5. For purposes of settlement and resolution of this action, the parties agree that IMR shall pay the total amount of \$200,000, to be distributed in the manner and amounts as set forth below:

A. To be Paid to Beni Lar

Within ten business days of the entry of this Decree, and upon receipt of an executed version of the release of claims, in the form attached hereto as Exhibit A and incorporated herein, IMR shall pay \$40,000.00 directly to Beni Lar. The parties represent that \$ 7,500.00 of the \$40,000.00 award is for back wages and interest thereon from which IMR shall deduct appropriate withholdings, including FICA and FUTA. The remaining \$ 32,500.00, from which

no deductions will be made, is to satisfy EEOC's claim for compensatory damages with respect to Ms. Lar and pursuant to which IMR will issue a Form 1099 to Ms. Lar. A check in the amount as calculated above will be paid directly to Beni Lar, by registered mail return receipt requested, at an address to be supplied by the EEOC. A copy of the check shall simultaneously be forwarded to the EEOC.

B. To be paid to Leela Walter

Within ten business days of the entry of this Decree, and upon receipt of an executed version of the release of claims, in the form attached hereto as Exhibit B and incorporated herein, IMR shall pay \$10,000.00 directly to Leela Walter. The parties represent that \$ 7,500.00 of the \$10,000.00 award is for back wages and interest thereon from which IMR shall deduct appropriate withholdings, including FICA and FUTA. The remaining \$ 2,500.00, from which no deductions will be made, is to satisfy EEOC's claim for compensatory damages with respect to Ms. Walter and pursuant to which IMR will issue a Form 1099 to Ms. Walter. A check in the amount as calculated above will be paid directly to Leela Walter, by registered mail return receipt requested, at an address to be supplied by the EEOC. A copy of the check shall simultaneously be forwarded to the EEOC.

C. To be paid to other class members

Within ten business days of the entry of this Decree, and upon receipt of an executed version of the release of claims, attached hereto as Exhibit C and incorporated herein, IMR shall pay \$ 7,500.00 for back wages and interest thereon from which IMR shall deduct appropriate withholdings, including FICA and FUTA, directly by check to each of the remaining 20 class members as detailed in Exhibit D attached hereto and incorporated herein. A copy of each check issued shall simultaneously be forwarded to the EEOC.

## **AFFIRMATIVE RELIEF MEASURES**

### 6. Applicant Tracking Log

As of the effective date of this Decree, IMR shall begin implementation of applicant tracking procedures to record any accents suggestive of foreign nationality (whether or not the accent hinders communication skills) of applicants applying to IMR for the Medical Recruiter/Interviewer position at its Maryland facility. This log will include, in addition to accent suggestive of foreign nationality, the application date, the date an offer is extended to the applicant, the date of hire, the date the applicant rejects the offer (where appropriate), and/or the rejection date for each applicant. Applicant tracking information will be retained by IMR for at least the next two years. When IMR is hiring or interviewing for the Medical Recruiter/Interviewer positions, all persons expressing an interest in being considered for hire or interview shall be required to complete a resume or application form on-line, as required by the Company. When IMR is not hiring or interviewing for the Medical Recruiter/Interviewer positions, it need not require interested persons to complete resume information or participate in applicant procedures so long as such policy is applicable to other positions at IMR when there are no vacancies in such positions. However, records of persons completing a resume or application form during this time will nevertheless be retained for the term of this consent decree. IMR reserves the right to use a hard-copy system for collecting and retaining resumes or application forms, using the same terms and retaining the same information as currently required under the on-line system.

### 7. Training for Positive EEO Management Practices

IMR will train the management workforce at its Maryland facility concerning national origin discrimination, and other laws enforced by the Commission. Such training will include training that otherwise qualified applicants for the Medical Recruiter/Interviewer position may not be rejected for employment solely due to their having a foreign accent. The trainer's credentials and an outline of the training shall be forwarded to the EEOC's attorney of record prior to such training being conducted. Training shall be completed within one hundred twenty

(120) days after the effective date of this Decree. A record shall be kept identifying all those attending the training. Within twenty (20) days after the training has been completed, IMR will forward a copy of the attendance roster to the EEOC's attorney of record.

8. Adoption of Anti-discrimination Policy

IMR will supplement its existing human resource policy for its Maryland facility with respect to the hiring of Medical Recruiters/Interviewers to include a prohibition of discrimination in hiring based on foreign accent. Upon completion of such supplementation, IMR will provide the Commission with a copy of said policy in its first report specified below. IMR shall ensure that all current and new supervisory and recruiting employees at its Maryland facility are given a copy of the supplemented policy. IMR shall forward, to the Commission's attorney of record, written certification that a copy of the supplemented policy has been distributed to all supervisory persons employed by IMR in its Maryland facility, and that it has created procedures to ensure that it will be distributed to all new supervisory employees hired within one year after entry of this Decree.

**REPORTS AND RECORDS**

9. IMR shall maintain the following documents and records during the term of the Decree:

- a. Applications, resumes, contact information, and interview notes, if any, of all applicants for the Medical Recruiter/Interviewer position at the Maryland facility during the term of the Decree.
- b. All material regarding the applicant tracking log, as defined in paragraph 6 herein.
- c. A listing of the executives, managers and supervisors participating in IMR's training programs described in the proceeding paragraph 7.
- d. All materials regarding applicant or employee complaints of national origin discrimination at IMR's Maryland facility, including accent discrimination, as well as all materials regarding IMR's handling of such complaints.

10. At the conclusion of the first twelve (12) month period following the effective date of the Decree, IMR will submit an annual written report to the Commission concerning the implementation of this Decree. The report shall be submitted within sixty (60) days of the conclusion of this 12 month reporting period. This report shall contain the information set forth below in subparagraphs a through c. Upon review of the report, EEOC may request a second report to be completed for the following six month period. Such a request shall be made only if the EEOC reasonably determines that the data contained within the 12 month report suggests possible national origin discrimination on the part of IMR.

- a. The number of applicants for employment as a Medical Recruiter/Interviewer at IMR's Maryland facility during the 12 month reporting period (as defined above), the number of applicants for that position having a foreign accent, including, for both the total number of applicants and for those applicants with foreign accents, the number of applicants extended an offer of employment and the number not offered employment, with names, phone numbers, addresses and, for all applicants with foreign accents who were not extended an offer of employment, the reason(s) for their non-selection.
- b. Copies of the information maintained pursuant to paragraph 9, subparagraphs b through d.
- c. IMR shall also maintain records of the underlying data summarized in any report required by this Decree until the expiration of this Decree.

#### **NOTICES**

11. Upon approval of this Decree, IMR will immediately post in conspicuous places in and about its Maryland facility, including all places where notices to employees are customarily posted, and maintain for a period of two (2) years from the date of posting, copies of the Notice attached hereto as Exhibit E and made a part hereof. Said Notice shall be signed by an official of IMR with the date of actual posting shown thereon. Should any Notice become



defaced, marred or otherwise made unreadable, IMR will ensure that a new readable copy of that Notice is posted in the same manner heretofore specified. IMR shall provide EEOC with an executed copy of the signed posted notice within seven (7) days of the institution of this Decree.

12. All notifications and reports required under this Decree shall be made in writing and in the case of notification to the Commission, shall be sufficient if hand-delivered or sent by registered or certified mail to:

Mildred A. Rivera, Esq.  
Equal Employment Opportunity Commission  
City Crescent Building, 3<sup>rd</sup> floor  
10 South Howard Street  
Baltimore, MD 21201

#### **REVIEW AND COMPLIANCE**

13. If the Commission has concerns during the term of this Decree about IMR's compliance with its terms, the Commission will notify counsel for IMR in writing of the Commission's specific contentions of alleged noncompliance and the factual bases therefor. After the Commission has given IMR such written notice, IMR shall have a period of 30 days thereafter to investigate, correct, or refute such contentions prior to the Commission's initiation of any court action concerning the alleged non-compliance.

14. This Decree shall be specifically enforceable in the United States District Court for the District of Maryland after the steps specified above have been taken. None of the parties shall challenge the personal jurisdiction of such court or assert that venue is proper in any other district court.

#### **CONSTRUCTION**

15. If any clause, sentence, paragraph or part of this Decree or the application of same to any person or circumstances, is, for any reason, judged by a court of competent jurisdiction to be totally or partially unenforceable or contrary to law or if the enactment or amendment of any federal or state statute, order, ordinance, or regulation renders any provision of this Decree totally

or partially unenforceable or contrary to law, such judgment, enactment, or amendment shall not affect, impair, or invalidate the remainder of this Decree.

16. This Decree shall be construed and interpreted in accordance with and governed by the laws of the United States. Its terms are the product of negotiation and are not to be construed as having been authored by one party rather than by the other.

17. Each party will bear its own costs and attorney's fees.

The undersigned parties in the above-captioned action hereby consent to the entry of the foregoing Consent Decree.

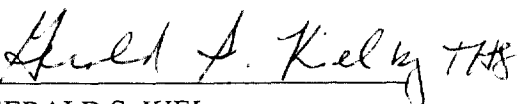
AGREED AND CONSENTED BY:

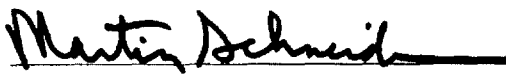
FOR PLAINTIFF:

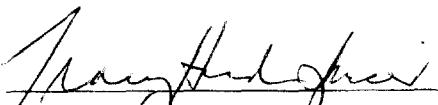
FOR DEFENDANT:

NICHOLAS M. INZEO  
Acting Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

  
GERALD S. KIEL  
Regional Attorney

  
MARTIN D. SCHNEIDERMAN  
Steptoe & Johnson, L.L.P.  
1330 Connecticut Ave., N.W.  
Washington, DC 20036  
Tel: (202) 429-6282

  
TRACY HUDSON SPICER  
Supervisory Trial Attorney



MILDRED A. RIVERA

Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

10 S. Howard Street, 3rd Floor

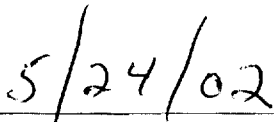
Baltimore, Maryland 21201

Tel. (410) 962-4180

SO ORDERED:



UNITED STATES DISTRICT JUDGE



DATE

## RELEASE AGREEMENT

In consideration for the payment of \$40,000.00 by Defendant AdvancePCS Research, LLC, successor in interest to Innovative Medical Research, Inc., as described in paragraph 5(A) of the Consent Decree entered in the case of Equal Employment Opportunity Commission v. Innovative Medical Research, Inc., et al., Civil Action No. CCB-01-cv-1128 (District of Maryland),

I, Beni Lar, hereby and forever irrevocably and unconditionally release, acquit, and forever discharge any and all legal claims that I might have against Innovative Medical Research, Inc., and/or AdvancePCS Research, LLC, and their respective successors, assigns, agents, officers, directors, shareholders, employees, subsidiaries, parent entities, predecessors, affiliated entities, and transferees arising from the charge of discrimination that I filed with the EEOC, Number 120-99-0251, and any and all legal claims that I might have against Innovative Medical Research, Inc., and/or AdvancePCS Research, LLC, and their respective successors, assigns, agents, officers, directors, shareholders, employees, subsidiaries, parent entities, predecessors, affiliated entities, and transferees arising under the amended complaint filed by the EEOC in the aforementioned case.

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Signature

---

Date

Exhibit A

## RELEASE AGREEMENT

In consideration for the payment of \$10,000.00 by Defendant AdvancePCS Research, LLC, successor in interest to Innovative Medical Research, Inc., as described in paragraph 5(B) of the Consent Decree entered in the case of Equal Employment Opportunity Commission v. Innovative Medical Research, Inc., et al., Civil Action No. CCB-01-cv-1128 (District of Maryland),

I, Leela Sharon Walter, hereby and forever irrevocably and unconditionally release, acquit, and forever discharge any and all legal claims that I might have against Innovative Medical Research, Inc., and/or AdvancePCS Research, LLC, and their respective successors, assigns, agents, officers, directors, shareholders, employees, subsidiaries, parent entities, predecessors, affiliated entities, and transferees arising under the amended complaint filed by the EEOC in the aforementioned case.

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Signature

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Date

## RELEASE AGREEMENT

In consideration for the payment of \$7,500.00 by Defendant AdvancePCS Research, LLC, successor in interest to Innovative Medical Research, Inc., as described in paragraph 5(C) of the Consent Decree entered in the case of Equal Employment Opportunity Commission v. Innovative Medical Research, Inc., et al., Civil Action No. CCB-01-cv-1128 (District of Maryland),

I, [ **name of claimant** ], hereby and forever irrevocably and unconditionally release, acquit, and forever discharge any and all legal claims that I might have against Innovative Medical Research, Inc., and/or AdvancePCS Research, LLC, and their respective successors, assigns, agents, officers, directors, shareholders, employees, subsidiaries, parent entities, predecessors, affiliated entities, and transferees arising under the amended complaint filed by the EEOC in the aforementioned case.

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Signature

---

Date

**Exhibit C**

### CLAIMANTS' AWARDS

<u>Name</u>	<u>Award (before tax withholding)</u>		
Beni Lar	\$ 40,000.		
Leela Sharon Walter	10,000.		
Godfred Amponsah	7,500.	Adolphus Mgbeahurike	7,500.
Mary Balarezo	7,500.	Harriet C. Nwokeuku	7,500.
Constantin Bell	7,500.	Chukwuma A. Okpala	7,500.
Praful R. Bhatt	7,500.	George Odhiambo Olieng	7,500.
Yvette Brebnor	7,500.	Bade Olusoga	7,500.
Letty S. Cenidoza	7,500.	Anthony Juma Onyango	7,500.
Mankaa Che	7,500.	Priti Ramesh	7,500.
Chigoziem Ekwonye	7,500.	Fatima A. Robinson	7,500.
Lucy Gitaka	7,500.	Nina Rukki	7,500.
Rubiela Mendez	7,500.	Stephen Toppin	7,500.

### Exhibit D

NOTICE POSTED PURSUANT TO AN AGREEMENT  
**WITH THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

1. This Notice to all employees of Innovative Medical Research (IMR) is being posted and distributed pursuant to a Consent Decree entered by the United States District Court for the District of Maryland as part of the settlement of a lawsuit brought against IMR by the Equal Employment Opportunity Commission (EEOC).
2. Discrimination on the basis of national origin is a violation of the law. The law prohibits discrimination based on the linguistic characteristics of a national origin group, including foreign accents.
3. IMR DOES NOT engage in and STRICTLY PROHIBITS discrimination against any employees and/or applicants for employment on the basis of national origin. This policy against discrimination includes a prohibiting against rejecting qualified applicants of any national origin for Medical Recruiter/Interviewer positions, solely due to their having a foreign accent. However, this policy does not prohibit rejecting applicants for such positions who do not communicate effectively in English, including medical terminology, so long as all applicants are subjected to the same selection criteria, even if the applicants possess a foreign accent.
4. It is unlawful for an employer:
  - (a) to fail or refuse to hire, promote or to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's national origin, race, color, religion, sex, or filing of a charge of discrimination;
  - (b) to limit, segregate, or classify his or her employees or applicants for employment in any way which would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect his/her status as an employee, because of such person's national origin race, color, religion, or sex.
5. IMR DOES NOT engage in and STRICTLY PROHIBITS any of the above unlawful acts or practices.
6. It is unlawful for an employer:

to retaliate in any manner against any employee or applicant for employment because that person opposes any practice that is unlawful under Title VII of the Civil Rights Act of 1964 or because that person:

  - (a) files a charge of discrimination or harassment,
  - (b) gives testimony, assists or participates in any investigation, proceeding, or hearing under Title VII of the Civil Rights Act of 1964, as amended.



7. IMR WILL NOT retaliate in any manner against any employee or applicant for employment because they complain of discrimination or assist or participate in the investigation of a complaint of discrimination.

8. Any employee who feels or believes that he or she is, or has been, the victim of discrimination or retaliation is encouraged to report that action immediately. Employees can report their concerns to their immediate supervisor, human resources, compliance advisory line at \_\_\_\_\_, or, should they so desire, they can report directly to the EEOC.

9. IMR will conduct a prompt and thorough investigation of all claims of discrimination. All complaints and any information developed during the course of the investigation of these complaints will be kept confidential to the extent reasonably possible. If an employee is found to have engaged in discrimination, that employee will be subject to disciplinary measures appropriate to the offense up to and including discharge.

10. Employees who have questions about their rights may visit the EEOC website at "www.EEOC.gov."

Date Signed: \_\_\_\_\_ Date Posted: \_\_\_\_\_

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[ Name ]  
Innovative Medical Research, Inc., [ job title ]

**Exhibit E**